

AMENDED IN SENATE AUGUST 30, 2011

AMENDED IN SENATE JUNE 15, 2011

AMENDED IN ASSEMBLY MARCH 22, 2011

AMENDED IN ASSEMBLY MARCH 8, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 288

Introduced by Assembly Member Fong

February 8, 2011

An act to add Section 76038 to the Education Code, relating to community college districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 288, as amended, Fong. Public postsecondary education: community colleges: expulsion hearing.

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts, administered by a governing board, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts.

Existing law authorizes the governing board of a district to expel a student for good cause when the presence of the student causes a continuing danger to the physical safety of the student or others. Existing law requires that the expulsion be accompanied by a hearing.

This bill would authorize the governing board of a district to either deny enrollment, permit enrollment, or permit conditional enrollment

to any individual who has been expelled from a community college within the preceding 5 years, or who is, at the time of the application, undergoing expulsion procedures, for certain offenses, as provided, if the board determines that the person continues to pose a risk to the safety of others. This bill would require the board or a delegate to hold a hearing, before taking action to deny enrollment or permit conditional enrollment, before making the determination as to whether the person continues to pose a risk. The bill would authorize a governing board of a district to delegate its authority under these provisions to the superintendent or president of the district, or to his or her designee.

The bill would expressly apply specified immunities to an exercise of discretion by a community college district, and its officers and employees, under these provisions.

The bill would also allow the community college district to request information from another community college district in determining whether the applicant continues to pose a danger to the physical safety of others. The bill would require any community college district receiving the request to respond to the request within 5 working days.

By requiring a community college district to hold a hearing and to respond to the request of another community college for information regarding an expelled student, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 76038 is added to the Education Code,
- 2 to read:
- 3 76038. (a) If the governing board of a community college
- 4 district receives an application for admission from an individual
- 5 who has been expelled from another district pursuant to this article
- 6 within the preceding 5 years, or who is undergoing expulsion

1 procedures in another district, for any of the offenses listed in
2 subdivision (b), before taking action to deny enrollment or permit
3 conditional enrollment as authorized by subdivision (e), the
4 governing board or delegate pursuant to subdivision (f) shall hold
5 a hearing, conducted in accordance with this section and the
6 applicable rules and regulations of governing enrollment hearings
7 authorized by this section and adopted in accordance with Section
8 66300, to determine whether that individual poses a continuing
9 danger to the physical safety of the students and employees of the
10 district.

11 (b) For purposes of this section, “offense” means one of the
12 following:

13 (1) Committed or attempted to commit murder.

14 (2) Caused, attempted to cause serious, or threatened to cause
15 physical injury to another person, including assault or battery as
16 defined in Section 240 or 242 of the Penal Code, except in
17 self-defense.

18 (3) Committed or attempted to commit a sexual assault as
19 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
20 Code or committed sexual battery as defined in Section 243.4 of
21 the Penal Code.

22 (4) Committed or attempted to commit kidnapping, or seized,
23 confined, inveigled, enticed, decoyed, abducted, concealed,
24 kidnapped, or carried away another person by any means with the
25 intent to hold or detain that person for ransom or reward.

26 (5) Committed or attempted to commit robbery or extortion.

27 (6) Committed stalking as defined in Section 646.9 of the Penal
28 Code.

29 (7) Unlawfully possessed, sold, or otherwise furnished a firearm,
30 knife, explosive, or other dangerous object.

31 (c) A community college district may request information from
32 another community college district in determining whether the
33 applicant continues to pose a danger to the physical safety of others.
34 Any community college district receiving such a request shall
35 respond no later than five working days from the receipt of the
36 request.

37 (d) Any student who has been previously expelled from a
38 community college in the state for any of the actions listed in
39 subdivision (b) shall inform the district in which he or she is
40 seeking admission of his or her prior expulsion. Failure to do so

1 ~~shall~~ *may* be considered by the district in determining whether to
2 grant admission, and a written record of the fact ~~shall~~ *may* be
3 maintained by the district with the applicant's file.

4 (e) The governing board of a community college district, upon
5 making a determination pursuant to subdivision (a), shall take into
6 consideration evidence of subsequent offenses and rehabilitative
7 efforts since the offense and may take any of the following actions:

8 (1) Deny enrollment.

9 (2) Permit enrollment.

10 (3) Permit conditional enrollment.

11 (f) The governing board of a community college district may
12 delegate any authority under this section to the superintendent or
13 president of a community college district, or his or her designee,
14 or a threat assessment crisis response team pursuant to rules and
15 regulations adopted pursuant to Section 66300.

16 (g) Before the governing board of a community college district
17 takes action as authorized under this section, the governing board
18 shall establish a formal appeals process for students denied
19 enrollment to appeal the decision to the governing board. A student
20 who is denied enrollment under subdivision (e) may appeal the
21 decision to deny enrollment to the governing board of the
22 community college district.

23 (h) This section shall not be construed to impose any duty on a
24 community college district to review applicants for admission or
25 review previously enrolled students, whether returning or
26 continuing, or to conduct a hearing in response to the receipt of
27 any information regarding a potential, former, or existing student.

28 (i) ~~A—In accordance with Sections 815.2 and 820.2 of the~~
29 ~~Government Code, a community college district, a member of the~~
30 ~~governing board of a community college district, an officer or~~
31 ~~employee of a community college district, including a~~
32 ~~superintendent of a community college district, a president of a~~
33 ~~community college district, and the designee of a president or a~~
34 ~~superintendent, shall not be liable for an injury resulting from an~~
35 ~~exercise of discretion pursuant to this section, and in accordance~~
36 ~~with Sections 815.2 and 820.2 of the Government Code, including,~~
37 ~~but not limited to, an exercise of discretion not to conduct a hearing~~
38 ~~when a hearing is not required.~~

39 SEC. 2. If the Commission on State Mandates determines that
40 this act contains costs mandated by the state, reimbursement to

1 local agencies and school districts for those costs shall be made
2 pursuant to Part 7 (commencing with Section 17500) of Division
3 4 of Title 2 of the Government Code.

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